IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE AT NASHVILLE

WHISTLE STOP FARMS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:16-cv-02934
)	
THE TOWN OF THOMPSON'S)	Judge Crenshaw
STATION, TENNESSEE,)	Magistrate Judge Brown
)	
Defendant.)	

DEFENDANT TOWN OF THOMPSON'S STATION'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 12(b)(6), the Defendant, Town of Thompson's Station, Tennessee (the "Town"), moves to dismiss Whistle Stop Farms, LLC's ("Whistle Stop") First Amended Complaint (Doc. No. 52) for failure to state a claim upon which relief may be granted. First, insofar as Plaintiff attempts to assert claims arising out of the February, September, or October 2015 actions of the Town's Board of Mayor and Aldermen ("BOMA"), those claims are time-barred. Second, Plaintiff's remaining claims arising out of any subsequent Town actions fail on their merits. As to Plaintiff's equal protection claim, Plaintiff has failed to identify any similarly-situated comparators, nor can Plaintiff establish that the Town had no rational basis for its decisions. As to Plaintiff's procedural and substantive due process claims, Plaintiff has failed to identify any legally-protected interest. Moreover, Plaintiff was provided notice and an opportunity to be heard, and none of the Town's actions at issue "shock the conscience."

For each of these reasons, described in more detail in the accompanying memorandum of law, Plaintiff's First Amended Complaint should be dismissed in its entirety with prejudice.

Respectfully submitted,

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Counsel for Defendant Town of Thompson's Station

Certificate of Service

I hereby certify that a copy of the foregoing has been forwarded via the CM/ECF electronic filing system on this the <u>26th</u> day of June, 2018 to the following:

Joshua R. Denton FROST BROWN TODD LLC 150 Third Avenue South, Suite 1900 Nashville, TN 37201 Douglas S. Hale HALE AND HALE, PLC 231 Public Square, Suite 312 Franklin, TN 37064

/s/ Allison L. Bussell Allison L. Bussell